



Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance (FR K; OMB No. 7100-0310).

DATES: Comments must be submitted on or before [insert date 60 days after publication in the *Federal Register*].

ADDRESSES: You may submit comments, identified by FR K, by any of the following methods:

- Agency Website: <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that

visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB Delegated Authority to Extend for Three Years, Without Revision, the Following Information Collection:

Report title: Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance.

Agency form number: FR K.

OMB control number: 7100-0310.

Frequency: Annual.

Respondents: State member banks; Edge Act and agreement corporations; and U.S. branches, agencies, and representative offices of foreign banks supervised by the Board, except for a federal branch or a federal agency or a state branch that is insured by the Federal Deposit Insurance Corporation (FDIC).

Estimated number of respondents: Establish compliance program - 1; Maintenance of compliance program - 906.

Estimated average hours per response: Establish compliance program - 16; Maintenance of compliance program - 4.

Estimated annual burden hours: Establish compliance program - 16; Maintenance of compliance program – 3,624.

General description of report: Section 208.63 of the Board’s Regulation H - Membership of State Banking Institutions in the Federal Reserve System (12 CFR Part 208) requires state member banks to establish and maintain in writing procedures reasonably designed to ensure and monitor compliance with the provisions of the Bank Secrecy Act (BSA)¹ and its implementing regulations. Sections 211.5(m)(1) and 211.24(j)(1) of the Board’s Regulation K - International Banking Operations (12 CFR Part 211) impose those same requirements on Edge Act and agreement corporations and, except for a federal branch or a federal agency² or a state branch that is insured by the FDIC, the U.S. branches, agencies, and representative offices of foreign banks supervised by the Board.

Legal authorization and confidentiality: The FR K is authorized pursuant to section 8(s) of the Federal Deposit Insurance Act (FDIA), which requires the federal banking agencies, including the Board, to (1) prescribe regulations requiring the institutions they regulate to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA and (2) to review such procedures during the course of their examinations (12 U.S.C. 1818(s)).³ The FR K is mandatory.

¹ See 31 U.S.C. 5311 et seq.

² The terms “federal agency” and “federal branch” have the same meanings as in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101). See 12 CFR 211.21.

³ Section 8(s) of the FDIA authorizes the Board to prescribe regulations covering the entities required to comply with section 208.63 of the Board’s Regulation H (12 CFR 208.63) and sections 211.5(m)(1) and 211.24(j)(1) of the Board’s Regulation K (12 CFR 211.5(m)(1) and 12 CFR 211.24(j)(1)). See 12 U.S.C. 1813(c)(3), 1818(b)(3), and 1818(b)(4).

Because the records required by the FR K will be retained at banking organizations, the Freedom of Information Act (FOIA) would only be implicated if the Board's examiners obtained a copy of the records as part of the examination or supervision of a banking institution. In that case, the records may be exempt from disclosure under exemption 8 of the FOIA, which protects examination materials from disclosure (5 U.S.C. 552(b)(8)). To the extent that information retained in response to the FR K constitutes nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, it may also be kept confidential under exemption 4 of the FOIA (5 U.S.C. 552(b)(4)). Exemption 4 protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential."

Board of Governors of the Federal Reserve System, December 6, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

Billing Code 6210-01-P

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